

# Making the abolition of contracting-out and the introduction of the single-tier state pension easier

May 2016

## Introduction

On **6 April 2016**, with the introduction of the new single-tier state pension, contracting-out on a final salary basis will end.

It is not just contracted-out schemes with active members that are affected. **Any schemes (whether or not contracted-out) that take account of the state pension in calculating benefits need to review their rules.** All schemes (even those that stopped contracting-out some time ago) need to be aware of the **deadlines for reconciling member records** with HMRC.

## 8 things you need to know

1. The end of contracting-out will lead to **an increase in employer and employee national insurance contributions (NICs)** for active members in contracted-out employment on 5 April 2016.
2. Employers will need to inform affected employees of the increase in their NICs. Trustees will need to notify active members of the change to their contracted-out status.
3. Employers should review the financial impact, and consider whether they wish to make **any changes to benefits or contribution rates** to take account of the increased NICs.
4. The law gives employers **power to make benefit changes or increase member contributions, without trustee consent**, to offset the increased NICs. Certain restrictions apply. Employers must exercise this power **before 6 April 2021**. Alternatively, employers may be able to use the **scheme amendment power** to make changes (although this usually requires trustee consent). Employers will need to **consult** with members on any changes.
5. Employers should check whether any scheme currently used as an **auto-enrolment scheme** will continue to meet the relevant requirements from 6 April 2016.
6. Trustees are responsible for ensuring that their records are accurate. In practice, some discrepancies arise between scheme data and data held by HMRC. When a scheme ceases to be contracted out, it is good practice for the scheme to **reconcile data with HMRC**. The latest date that HMRC will accept reconciliation queries is **October 2018** since all reconciliation activity must end by December 2018. After that time, HMRC will assume that its own data is correct, and it will provide members with details of their contracted-out scheme membership.
7. A number of schemes (whether or not contracted-out) have a **state pension offset**, ie. an amount may be deducted from pensionable pay by reference to the basic state pension or some proportion of it. Similarly, a number of schemes (whether or not contracted-out) have **bridging pensions**, ie. supplementary pensions paid before state pension age which are reduced once the member reaches state pension age. Schemes with state pension offsets or **bridging pensions** should ask their legal advisers to **check whether their rules will continue to operate as expected** once the single-tier state pension is introduced.
8. Restrictions will continue to apply after 5 April 2016 to the commutation, suspension, forfeiture, amendment and transfer of contracted-out rights. Those restrictions will not apply to any rights that build up after 5 April 2016, **unless there is wording in the scheme rules that ensures the restrictions do apply**. Scheme rules are also unlikely to reflect the way GMPs will be revalued after 5 April 2016. Trustees and employers should ask their legal advisers to look at these points.

Continued on next page >

# Making the abolition of contracting-out and the introduction of the single-tier state pension easier

May 2016

## Further reading

- [National Insurance Services to Pensions Industry \(NISPI\): countdown bulletins](#)
- [DWP and HMRC – New State Pension: information for employers and trustees with open, contracted-out defined benefit pension schemes](#)
- [DWP and HMRC – Employee factsheet](#)

Pensions law can be tricky... but it doesn't have to be. These 'making it easier' guides explain key issues in simple terms, giving practical help to trustees and employers.

The series is growing; additional copies can be downloaded from <http://www.pinsentmasons.com/en/expertise/services/pensions/publications/>

Current topics include: Employer covenants; Overpayments and Employer debt

Comments and ideas for further topics are welcome...

[stephen.scholefield@pinsentmasons.com](mailto:stephen.scholefield@pinsentmasons.com)



**This note does not constitute legal advice. Specific legal advice should be taken before acting on any of the topics covered.**

Pinsent Masons LLP is a limited liability partnership registered in England & Wales (registered number: OC333653) authorised and regulated by the Solicitors Regulation Authority and the appropriate regulatory body in the other jurisdictions in which it operates. The word 'partner', used in relation to the LLP, refers to a member of the LLP or an employee or consultant of the LLP or any affiliated firm of equivalent standing. A list of the members of the LLP, and of those non-members who are designated as partners, is displayed at the LLP's registered office: 30 Crown Place, London EC2A 4ES, United Kingdom. We use 'Pinsent Masons' to refer to Pinsent Masons LLP, its subsidiaries and any affiliates which it or its partners operate as separate businesses for regulatory or other reasons. Reference to 'Pinsent Masons' is to Pinsent Masons LLP and/or one or more of those subsidiaries or affiliates as the context requires.

© Pinsent Masons LLP 2016.

For a full list of our locations around the globe please visit our websites: [www.pinsentmasons.com](http://www.pinsentmasons.com) and [www.Out-Law.com](http://www.Out-Law.com).